

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KANSAS**

AMIR AFSHAR,

Plaintiff,

v.

**UNITED STATES DEPARTMENT OF
STATE AND UNITED STATES
DEPARTMENT OF HOMELAND
SECURITY,**

Defendants.

No. 06-2071-CM

ORDER

Defendants filed a motion to dismiss this case on May 19, 2006. Plaintiff responded *pro se*, and defendants filed a reply brief. Twenty days after defendants filed their reply brief, plaintiff filed what is, in essence, a surreply (entitled a “reply to defendants’ reply”). Defendants have now filed Defendants’ Motion to Strike Plaintiff’s Reply to Defendants’ Reply in Support of their Motion to Dismiss, or in the Alternative, for Summary Judgment (Doc. 22), arguing that plaintiff filed a surreply without leave of the court and that the court should not consider plaintiff’s surreply.

Defendants are correct – surreplies are typically not allowed. *See Delkhah v. Moore*, No. 04-2543-KHV, 2006 WL 1320255, at *1 n.1 (D. Kan. May 15, 2006) (citation omitted); D. Kan. R. 7.1 (contemplating only that parties will file motions, responses, and replies). Where surreplies are permitted, it is only with leave of the court. *Delkhah*, 2006 WL 1320255, at *1. Although plaintiff proceeds *pro se*, he is expected to comply with the same rules of procedure governing represented parties. *See Odgen v. San*

Juan County, 32 F.3d 452, 455 (10th Cir. 1994).

That being said, the court will not strike plaintiff's surreply. This litigation is in its early stages, and the court finds that, in this particular situation, the interests of justice will be served if the court has full briefing – including the arguments in plaintiff's surreply – on defendants' motion to dismiss. Plaintiff is admonished, however, that he should be mindful of the court's rules and comply with them. The court expects plaintiff to follow the same procedural rules as other litigants.

IT IS THEREFORE ORDERED that Defendants' Motion to Strike Plaintiff's Reply to Defendants' Reply in Support of their Motion to Dismiss, or in the Alternative, for Summary Judgment (Doc. 22) is denied.

Dated this 11th day of June 2006, at Kansas City, Kansas.

s/ Carlos M urguia
CARLOS MURGUIA
United States District Judge